THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6425, 6493, 7900 of 1995 &
16427/96, 30364/97, 18434/98, 27814/98, 31145/98

COMMON ORDER:

In all these writ petitions, common questions of law and fact arise for consideration, therefore, they are being disposed of by this common order.

The petitioners in all these writ petitions were appointed as Hindi Pandits Gr.II, Telugu Pandits Gr.II, Physical Education Teachers, Crafts Teachers etc., in Education Department. The petitioners were sponsored by Employment Exchange on the requisition made by the Education Department and they were put to selection process and appointed as such.

The Government of Andhra Pradesh issued G.O.Rt.No.275 Social Welfare (E) Department dated 8.11.1986, whereunder a notification has been issued as per the powers conferred under sub-paragraph (1) of paragraph 5 of the Fifth Schedule to the Constitution of India by the Governor of Andhra Pradesh to the effect that the "posts of teachers in the Educational Institutions in the Scheduled areas of the State, shall be filled in only by the local members of the Scheduled Tribes notwithstanding anything contained in any other order or rule or law in force". Thereafter, an amendment to the said notification was issued through G.O.Ms.No.73 Social Welfare (E) Department dated 25.4.1987 to the following effect:

> "Provided that the posts of Teachers such as B.Ed. Assistants, Telugu Pandits, Crafts Assistants and Hindi Pandits may be filled in by the members of non-tribals having requisite qualifications on temporary basis till the qualified local tribals are available, provided further that the persons so appointed shall be replaced by the qualified local tribals as and when such tribals are available".

While that being so, G.O.Rt.No.275 dated 8.11.1986 and G.O.M.No.73 dated 25.4.1987 were challenged before the A.P. Administrative Tribunal in

R.P.Nos.6377 and 6379 of 1988 and the Administrative Tribunal quashed the said G.Os. on the ground that the notification issued under sub-paragraph (1) of paragraph 5 of Fifth Schedule to the Constitution of India does not reflect the existence of either a State or a Central Legislation referable for issuing such notification. The State Government carried the matter by way of appeal before the Supreme Court vide S.L.P.No.14562-63 of 1989. Initially stay was granted, however, thereafter, the Government withdrew the said SLPs and thus, the appeals were dismissed as withdrawn by order dated 20.3.1998. Further, the very same G.Os. were the subject matter of W.A.Nos.874 of 1997 and this Court by order dated 20.8.1997, directed the respondents to continue the petitioners therein without any break as temporary employees until they were replaced by the qualified local tribals as and when such tribals are available to fill up the posts. Aggrieved by the same, petitioners in the writ petition approached Supreme Court by way of Civil Appeal No.6437 of 1998. However, the said appeal was allowed since the Government already withdrawn Civil Appeals on 20.3.1998.

The learned Special Government Pleader contends that during the pendency of writ petitions, G.O.Ms.No.3 dated 10.1.2000 was issued and therefore, the petitioners are not entitled for any relief. This was neither pleaded nor there is any necessity of going into the validity of the said G.O. and its applicability to the writ petitioners.

All these writ petitions could have been disposed of by simply saying that they are covered by the judgment of the A.P. Administrative Tribunal, which was upheld by the Supreme Court and instead of that, these writ petitions were kept pending.

I am of the considered opinion that in all these writ petitions, no further adjudication is required. The issue raised in these writ petitions is squarely

covered by the judgment rendered in R.Ps. which was confirmed by the Supreme Court. Therefore, these writ petitions are allowed in the light of judgment rendered in R.P.Nos.6377 and 6379 of 1988 and in the light of judgment passed by the Supreme Court in Civil Appeal No.6437 of 1998 and the petitioners have to be considered on par with those who are parties to the said judgment.

The writ petitions are accordingly allowed. No order as to costs.

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C.V.RAMULU, J

Date: 6.3.2007

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W.P.No.6425, 6493, 7900 of 1995 &
16427/96, 30364/97, 18434/98, 27814/98, 31145/98

6.3.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6425, 6493, 7900 of 1995 &
16427/96, 30364/97, 18434/98, 27814/98, 31145/98

Date: 6th March, 2006

Between:

G.Nagamani & others.
Petitioners in W.P.No.6425 of 1995

M.Syamala & others. Petitioners in W.P.No.6493 of 1995

Tulluri Srinivasa Rao & another. Petitioners in W.P.No.7900 of 1995

And

The District Tribal Welfare Officer,
Khammam at Bhadrachalam & another. .. Respondents in all the W.Ps.

W.P.No.16427 of 1996

M.Raja Dinakar & others. .. Petitioners

And

Integrated Tribal Development Agency,
represented by its Project Officer,
Rampachodavaram, E.G. district & another. .. Respondents

R.Narasimha Rao & others. .. Petitioners in W.P.No.30364 of 1997

A.B.Dhana Murthy .. Petitioner in W.P.No.18434 of 1998

P.Sudhakar Raju & others. .. Petitioners in W.P.No.27814 of 1998

And

The District Tribal Welfare Officer,
Khammam at Bhadrachalam & another. . Respondents in all the W.Ps.

W.P.No.31145 of 1998

M.Srinivasu .. Petitioner

And

The Project Officer,
Integrated Tribal Development Agency,
Bhadrachalam & another. .. Respondents